

REMARKS

Upon entry of this Amendment, claims 1-93 are pending. A provisional election was made without traverse to prosecute the invention of group VII, claims 87-93. Claims 1-86 are withdrawn from further consideration as being drawn to a non-elected invention. Claims 87-93 stand rejected under 35 U.S.C. §102(e) as anticipated by U.S. Patent Application Publication No. 2001/0044293 to *Morgan*.

Claim 87 is independent. Applicant traverses the Examiner's rejection by showing, *inter alia*, that *Morgan* fails to disclose all elements of the claim. Claims 88-93 are patentable at least because each claim 88-93 includes all the elements of the parent claim 87.

Rejection Under §102

No prior art of record teaches expressly or by implication all of the limitations of claim 87. The Examiner has taken the position that claims 87-93 are anticipated by *Morgan*. *Morgan* does not teach or suggest, *inter alia*, "sending a second message via the first link to permit the wireless device to perform the part of the distributed processing application program".

The Examiner relies on this passage from *Morgan* for showing the above quoted limitation:

[0027] The method begins as a customer 10 powers-up their cellular phone 60 in a particular country. When this occurs, **the phone automatically transmits its MIN and ESN to the nearest MTSO 62.** ... The relevant MTSO examines the MIN to determine whether the line-range of the MIN is in the MTSO's foreign VLR 64.

[0028] ... If the line-range does match with an entry stored in the MTSO foreign VLR, then **the MTSO issues a query 68 through the IS-41 or GSM clouds 32, 36 to find the individual customer profile in the HLR.** This query is generally based on the MIN/ESN combination of the customer 10. Assuming the appropriate HLR has been contacted by the serving MTSO, a further determination is made as to whether the specific MIN/ESN combination of this customer is present in the HLR 70. ... But, if the MIN/ESN combination is validated by the HLR 70, then **the security, service and configuration information for this customer is copied from the HLR to the serving MTSO 72 so that the MTSO can build a specific temporary VLR entry for this**

customer that defines the scope of services allowed for the customer.

[0029] After the HLR information is copied to the serving MTSO (or at the same time as this operation is commencing), the **HLR communicates with the customer's home account database** to determine whether the Location Flag is set to the location where the customer is presently located 74. This customer's location is known from information provided by the cellular network, and also by the specific MTSO requesting HLR information for this customer. If the customer location is the same as the Location Flag, then the customer's account record is in the right place, and no transfer of the account record occurs. **At this point, the system is ready to process a call to or from the customer 80.** (This step will be described in more detail below.)

[0030] But if the customer location is different than the location of the customer's account record (as indicated by the Location Flag), then the system must transfer the account record to the present location of the customer 76. So, for example, if the Location Flag indicated that the Customer was in Country A, but the present location of the customer (based on information derived from the communication from the serving MTSO to the HLR) is Country B, then **the system will transfer the account record from the Country A account database to the Country B account database via the account transfer communication link.** Since the amount of data to transfer is very small, this step takes a few seconds, at most, and only requires a periodic burst of bandwidth. Once the account has been transferred to the new location, the Location Flag is set to indicate the new location of the customer's account 78, and the system is then ready to process a call 80. At the same time that the account is transferred, the appropriate monetary exchange rate can be applied to the account balance so it is in the correct debit currency for the new location.

(*Morgan* at indicated paragraphs, emphasis added)

A careful reading of the above passage indicates that nothing is transferred from the MTSO or “the system” of *Morgan* to the cellular phone. *Morgan* does not disclose the “second message” or its purpose. The query sent in *Morgan* cannot be a “second message” as claimed because, *inter alia*, the query in *Morgan* is not sent to the cellular phone. The claim recites “sending a second message via the first link”. As claimed, the first link includes the computer that performs the claimed method and the wireless device.

Further, the purpose of the second message as recited in the claim is not accomplished by any message disclosed by *Morgan*. The recited purpose is “to permit the wireless device to

perform the part of the distributed processing application program". In *Morgan*, whether or not a wireless device is permitted to cooperate in telephone communication is not controlled by the cellular telephone. For example, moving the account information seems to be a prerequisite to a user making a call in *Morgan*. However, the cellular phone is not involved in that movement.

A lack of novelty cannot be established without showing every element of the claim. Withdrawal of the rejections is respectfully requested because no *prima facia* case has been established by the Examiner.

Conclusion

Reconsideration is respectfully requested. Applicant believes the case is in condition for allowance and respectfully requests withdrawal of the rejections and allowance of the pending claims.

The Examiner is invited to telephone the undersigned at the telephone number listed below if it would in any way advance prosecution of this case.

Respectfully submitted,

Date: August 9, 2004

William R. Bachand

William R. Bachand
Reg. No. 34,980

SQUIRE, SANDERS & DEMPSEY L.L.P.
Two Renaissance Square
40 North Central Avenue, Suite 2700
Phoenix, Arizona 85004-4498
(602) 528-4100